

KING & SPALDING

King & Spalding LLP
1180 Peachtree Street N.E. Ste. 1600
Atlanta, GA 30309-3521
Tel: +1 404 572 4600
Fax: +1 404 572 5100
www.kslaw.com

Sally Q. Yates
Direct Dial: +1 404 572 2723
syates@kslaw.com

John A. Horn
Direct Dial: +1 404 572 2816
jhorn@kslaw.com

October 4, 2018

Susan L. Segal
City Attorney, City of Minneapolis
350 S. Fifth Street, Room 210
Minneapolis, Minnesota 55415

**PRIVILEGED AND CONFIDENTIAL:
SUBJECT TO ATTORNEY-CLIENT
PRIVILEGE AND ATTORNEY WORK
PRODUCT DOCTRINE**

Dear Susan,

We were very surprised and disappointed to learn that the City Council voted not to approve the contract for our independent review during its September 21, 2018, meeting. Given that the Ways and Means Committee unanimously approved the contract just two days earlier, and that no concerns had ever been expressed to us about the fee or any other issue, we felt blindsided by this development.

As we have discussed from the beginning, we believe that thorough fact finding is required for an investigation to be credited by the community and to be trusted and relied upon to create important public policies. Our investigation was to include not only a review and analysis of the many hours of video recordings of the relevant police-citizen encounters, but also interviews of relevant parties, investigation of the historical backdrop of the incidents, review of policies and law enforcement best practices relevant to the interaction between medical personnel and police officers, and recommendations for policy or practice changes to avoid this or similar situations in the future.

For example, our review included seeking to determine the reason for the sharp increase in the use of ketamine, including: whether EMTs previously administered other sedatives with comparative frequency before switching to ketamine, or whether the use of ketamine reflected a new trend in sedative use in citizen encounters; whether, if the use of sedatives overall has remained constant over a longer time period, the use of sedatives in Minneapolis reflects a greater frequency than in other comparable municipalities; whether the increase was linked to any training or guidance issued by MPD or EMT supervisors, or any informal patterns or practices that arose within those organizations; and whether any links existed between the increase and the clinical study that was taking place at the Hennepin County Medical Center. Finally, our investigation also included an examination of the broader question of why, how and when the EMTs were called to these encounters in the first place.

The resolution of these fundamental questions requires fact interviews of police and hospital supervisors, consultation with experts in policing policies and best practices, and a broader assessment and comparison of MPD statistics to other cities or national averages. It requires interviews of at least some of the individual officers and EMTs who responded in these encounters to understand their motivations and reasoning, prior training and guidance, and awareness of any informal practices that resulted in the use of ketamine. The resolution may even require interviews of other individuals involved in these encounters to verify the presence of a medical issue precipitating the involvement of EMTs and the use of a sedative, if these facts are not apparent from a recording or police report.

We certainly recognize that \$195,000 is a substantial expenditure of public funds for any municipality. As you know, however, we anticipated that our total costs would far exceed this figure, and were doing much of this work without charge as a public service because of the importance of these issues. Indeed, we have already expended time in excess of this agreed upon fee. We discussed at length the fee that you believed would be acceptable to the City Council, and we agreed to propose a fee consistent with this amount despite the fact that we would not be billing for much of the time required to complete the assignment.

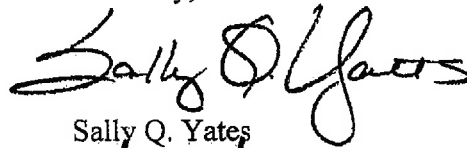
In short, this engagement demanded substantial resources to be completed properly and, as we regularly reported, we already had completed or otherwise undertaken considerable work before learning about the commission's vote. This completed work included, but was not limited to, the following:

- Preparing a detailed review protocol for analysis of the relevant videos and conducting in-person training for reviewer attorneys to ensure appropriate focus and consistency;
- Expending approximately 427 hours in reviewing and analyzing materials for 132 incidents including approximately 122 hours of video footage;
- Preparing detailed review summaries of each incident, totaling approximately 600 pages;
- Consulting with national experts in policing to gauge the policies and practices at issue in this matter;
- Coordinating with the City Attorney's Office to develop a broader search protocol within the database of police reports to identify incidents involving sedatives in addition to ketamine;
- Collecting and reviewing 911 communications in relevant encounters to identify the presence of a medical issue requiring EMT response;
- Drafting preliminary witness interview outlines; and
- Analyzing relevant MPD policies.

Susan L. Segal
October 4, 2018
Page 3

This list is merely illustrative of the considerable work we had already completed and the resources expended in this engagement based upon our understanding that our proposed fee would be acceptable to the City. We respect the City Council's discretion to disapprove the contract, but for the reasons set forth above, we nonetheless are disappointed that our engagement will terminate without resolution and that so many of these important questions will remain unanswered.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Q. Yates". The signature is fluid and cursive, with the first name "Sally" being more prominent.

Sally Q. Yates

A handwritten signature in black ink, appearing to read "John A. Horn". The signature is bold and cursive, with the first name "John" being the most distinct part.

John A. Horn